

REMARKS

Further and favorable reconsideration is respectfully requested in view of the foregoing amendments and following remarks.

Claim Amendments

The claims have been amended to delete “a pharmaceutically acceptable salt thereof or a solvate thereof”. Additionally, claim 7 has been amended to exclude a particular compound. No new matter has been added to the application by this amendment, since each of the recited substituent definitions in the exclusion was recited in the previously presented claim.

Rejections of Claims Under 35 U.S.C. § 112, Second Paragraph

The rejections of claims 7-14 under 35 U.S.C. § 112, second paragraph, is respectfully traversed.

The Examiner takes the position that the claims are indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Specifically, the Examiner states that claim 7 recites the broad recitation “R⁹ each is independently ... substituted alkyl”, and the claim also recites “R⁹ each is independently ... halogenated alkyl”, which is a narrower statement of the former range, because a “substituted” alkyl would encompass a “halogenated” alkyl.

However, Applicants kindly assert that the Examiner has misunderstood the claim language. Specifically, “halogenated alkyl” is referring to “Y”, rather than to “R⁹”. This is evident by the use of the “;” after the phrase “optionally substituted alkyl”. Accordingly, Applicants respectfully assert that the claims are definite in their present form, and the above-rejection should be withdrawn.

Rejections of Claims Under 35 U.S.C. § 112, First Paragraph

The rejections of claims 7-14 under 35 U.S.C. § 112, first paragraph, have been rendered moot in view of the claim amendments.

Specifically, Applicants have deleted “solvates” as well as “pharmaceutically acceptable salts”. Therefore, the rejections under the first paragraph of 35 U.S.C. § 112 should be withdrawn.

Patentability Arguments

The patentability of the present invention over the disclosure of the reference relied upon by the Examiner in rejecting the claims will be apparent upon consideration of the following remarks.

Rejection Under 35 U.S.C. § 102(b)

The rejection of claims 7, 10, 11, 13 and 14 under 35 U.S.C. § 102(b) as being anticipated by Maier et al. has been rendered moot by the above-discussed claim amendments.

Specifically, the compound taught by Maier et al. is no longer encompassed by Applicants’ claims. Therefore, the above-rejection should be withdrawn.

Conclusion

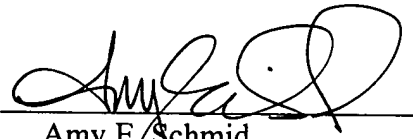
In view of the foregoing amendments and remarks, it is submitted that the grounds of rejection set forth by the Examiner have been overcome, and that the application is in condition for allowance. Such allowance is solicited.

If, after reviewing this Amendment, the Examiner feels there are any issues remaining which must be resolved before the application can be passed to issue, the Examiner is respectfully requested to contact the undersigned by telephone in order to resolve such issues.

Respectfully submitted,

Takashi KAWASUJI et al.

By:



Amy E. Schmid
Registration No. 55,965
Attorney for Applicants

AES/emj
Washington, D.C. 20006-1021
Telephone (202) 721-8200
Facsimile (202) 721-8250
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